British Colonies vol 7.

May, 1773.

THE RIGHTS OF THE EAST-INDIA COMPANY.

THE Company's Rights in the State are ſuch as they poſſeſs by Charter freely granted; ſuch as they have *purchaſed by a valuable conſideration paid to the Publick*; and laſtly, what they hold by uſage.

The Act of Parliament paſſed in the 3d year of *George* IId (1729) ſo clearly defines the *rights* of the *Eaſt-India* Company, that it is aſtoniſhing any doubts could have ariſen on the ſubject.

The Preamble to the Act, after reciting various Acts and Charters in the Company's behalf, obſerves, that "The United Com-
"pany of Merchants of England trading
"to the Eaſt-Indies, are legally poſſeſſed
"of, and entitled to the principal or capi-
"tal Stock of £. 3,200,000, and to the
"[redeemable] yearly fund of £. 160,000
"and are alſo poſſeſſed of and entitled to
"an additional Stock in *Trade*, and ſeve-
"ral *Forts*, *Factories*, *Settlements*, *Poſſeſſions*,
"*Eſtates*, and *Hereditaments*, for the benefit
"of, and in truſt for the Members of the
"ſaid United Company.

"And whereas the ſaid United Company
"by virtue of the ſaid Acts of Parliament
"and Charters ſome or one of them, *claim*
"to be a Body Politick and Corporate,
"and

" and to have perpetual ſucceſſion, and
" *claim alſo the whole and ſole Trade*, exclu-
" ſive of all others in, to, and from the
" Eaſt-Indies *for ever*: But nevertheleſs
" the ſaid United Company being willing,
" that all *doubts*, touching the continuances
" of their Corporation, and of their right
" to the whole and ſole Trade within the
" Limits aforeſaid *for ever* after the re-
" demption of the ſaid yearly fund, *ſhould*
" *be removed*, were and are contented, and
" accordingly have conſented and agreed,
" to ſubject their right or claim to the ſaid
" whole, ſole, and excluſive Trade, to be
" redeemable or determinable by Parlia-
" ment in manner herein after mentioned;
" and have conſented and agreed that their
" preſent annuity, or yearly fund of
" £160,000, payable in reſpect of their ſaid
" Capital Stock, or Debt of £. 3,200,000
" from the Publick, be from and after the
" 29th September, 1730, reduced to an
" annuity or yearly fund of £. 128,000 re-
" deemable

" deemable by Parliament on one year's " notice to be given after the 25th March, " 1736, on payment to them of their ſaid " whole Capital Debt, with all arrears in " reſpect thereof, in manner hereafter " mentioned, and were and are moreover " willing, and have conſented and agreed " to pay into his Majeſty's Exchequer, on " or before the 24th December, 1730, " the full ſum of £200,000 without any " Intereſt or addition to their ſaid Capital " Stock or Debt for the ſame, to be ap- " plied as hereafter mentioned; BUT UPON " SUCH TERMS, CONDITIONS, GRANTS, " CONFIRMATIONS, ARTICLES AND PRO- " VISIONS, NEVERTHELESS AS HEREIN " AFTER ARE MADE, GRANTED, PRO- " VIDED, DECLARED AND ENACTED."

The Articles of this Act were that The Company ſhould pay into the Exchequer £.200,000 by the 24th December, 1730.

That after the 29th September, 1730, the Annuity or Intereſt of the Publick Debt

Debt to the Company, of £. 160,000 be reduced to £. 128,000, that is, be diminiſhed £. 32,000 per An.

That on one year's notice after the 25th March, 1736, and repayment of the whole debt of £. 3,200,000 and arrears of annuity, the annuity to ceaſe.

That on any time or times after the 25th March, 1736, the Capital Stock or Debt from the Publick to the Company might be paid off in Sums not leſs than £. 500,000 at a time, and as ſuch ſums were paid, ſo much of the Annuity to ceaſe.

But notwithſtanding ſuch redemption, Every Perſon who has a ſhare in the Company's Stock or " in the ſaid *Forts, Facto-*
" *ries, Settlements, Lands, Tenements, Rights,*
" *Hereditaments, Poſſeſſions, Eſtate* or *Eſ-*
" *tates* of *or belonging to the ſaid United Com-*
" *pany of Merchants of England trading to the*
" Eaſt Indies or *unto which they* are, *ſhall or*
" *may be entitled,* and all and every Perſon

" or

" or Perſons who ſhall have any part or in-
" tereſt in the ſame, or to any future or
" other additional Stock, Stock in Trade,
" Monies, Poſſeſſions, Rights, Heredita-
" ments, or Eſtates of or belonging to, or
" that *ſhall or may be acquired, gained or ob-*
" *tained* by the *ſaid United Company* or their
" Succeſſors, ſo long as *They* ſhall reſpec-
" tively have any ſuch part or intereſt, ſhall
" be and continue to be a Body *Politick*
" and Corporate in Deed and in name, by
" the name of the *United Company of Mer-*
" *chants of England trading to the Eaſt-*
" *Indies*, and by that name ſhall have per-
" petual Succeſſion, and a Common Seal,
" and they and their Succeſſors by the name
" aforeſaid, ſhall be *able and capable* in
" the Law, to *have*, *purchaſe*, *receive*, *enjoy*,
" *poſſeſs* and *retain* to them, and their Suc-
" ceſſors, *Lands*, *Rents*, *Tenements*, *and*
" *Hereditaments*, of *what kind*, *nature*, or
" *quality ſoever*, and alſo to *ſell*, *grant*,
" *demiſe*, *aliene*, or *diſpoſe* of the ſame."

" And

" And ſhall have, hold and enjoy all Bene-
" fits, Priviledges, Franchiſes and Rights,
" which by any former Act or Acts, or any
" Charter or Charters, founded thereupon,
" the ſaid United Company might hold and
" enjoy, which are not herein, or hereby
" altered or varied."

And all perſons at the time of ſuch redemption of the yearly Fund of £. 128,000, having any part or Intereſt in the principal Stock of £. 3,200,000, and in the ſaid additional Stock, Stock in Trade and Monies, paid in for carrying on the ſame, and of, in and to other the *Poſſeſſions, Rights, Eſtates and Hereditaments*, aforeſaid *acquired* or *purchaſed* by, or *any ways belonging* or *appertaining* to the ſaid United Company; And all Perſons that ſhall at any time after derive from them a right or title, notwithſtanding ſuch redemption ſhall *have* and *continue* to *have* and be *entitled* to the *ſame*, and to all *future* and *other*, the *Stocks, Monies, Poſſeſſions, Rights, Hereditaments* and *Eſtates*, to be *acquired, gained, belong-*

belonging or to *belong* to the ſaid United Company and their Succeſſors, and to all *Benefits*, *Profits*, *Priviledges* and *Advantages* ariſing or to ariſe therefrom, in proportion to their reſpective ſhares therein, and the *ſaid parts, ſhares and Intereſt, ſhall be aſſignable or transfered as ſhares in the Capital Stock at preſent.*

After the redemption of the yearly fund or after one moiety or more ſhall be redeemed by Parliament, the ſaid United Company, may from time to time, by *Bye-Laws* or *Orders*, to be made in their General Court, declare and direct, how much and what part or ſhare, in the remaining Capital Stock or yearly fund, or in the ſaid additional Stock, and Stock in trade, poſſeſſions, &c. ſhall qualify any perſons, Members of ſaid Company, to be directors for affairs of ſaid Company, and what ſhare ſhall qualify Perſons to vote in a General Court, and for electing Directors, and for their continuance or removal, Incapacity or Avoidance.

Not-

Notwithſtanding the Redemption, the Company to enjoy the ſole Trade, ſubject to the proviſo of *Determination*; and any Interloper ſhall forfeit Veſſel and appurtenances, Goods laden thereon, and proceeds, and double the value as in the Act of 7th. George 1ſt.

The ſaid Company ſhall at all times hereafter for ever, have, hold and enjoy, and be entitled unto all *Profits*, *Benefits*, *Advantages*, *Priviledges*, *Franchiſes*, *Abilities*, *Capacities*, *Powers*, *Authorities*, *Rights*, *Remedies*, *Methods of Suit*, and all Penalties, Forfeitures, Diſabilities, Proviſions, Matters and Things whatſoever, which by any former Act, or any Charter founded thereon, or any Clauſe in ſuch Act or Charter are *enacted*, *given*, *granted*, *provided*, *inflicted*, *limited*, *eſtabliſhed*, or *declared* to, for, touching or concerning the ſaid Company or Body Politick and Corporate, either by name of General Society, &c. or Engliſh Company, &c. or United Company,

&c. not by this Act altered or intended to be altered according to the tenor and true meaning of the ſaid Acts and Charters, *freed* and *diſcharged* from *all proviſoes and Conditions* of *Redemption* and *Determination* therein contained, and the ſame and every of them, are hereby ratified and confirmed and ſhall continue to be held and enjoyed, and be practiſed and put in Execution by the ſaid United Company and their ſucceſſors, for the *better* and *more effectual* ſettling and ſecuring to them and their ſucceſſors, the whole ſole and excluſive Trade to the Eaſt Indies and parts aforeſaid; and for the preventing all his Majeſty's Subjects trading thither, *and for ſecuring alſo their Poſſeſſions, Eſtate and Effects, and governing their Affairs and Buſineſs in all reſpects, as fully and effectually as if the ſame Profits, Benefits, &c. were ſeverally repeated and at large re-enacted in the body of this Act*, ſubject nevertheleſs to ſuch reſtrictions, Covenants and Agreements,

as

as are contained in the ſaid Acts and Letters Patent now in Force, and not herein or hereby varied or altered, and ſubject alſo to the following proviſo.

That at any time after March 25, 1766, on three years notice and repayment of the Capital Stock of £. 3,200,000, then the Right, Title and Intereſt of the ſaid United Company of, &c. to the *whole*, *ſole*, and *excluſive* Trade to the Eaſt-Indies and parts aforeſaid, ſhall *ceaſe* and *determine*.

But Corporation of ſaid Company not determined thereby, nor the Company excluded from carrying on, at all times, after ſuch determination of the right to the *ſole*, *whole*, and *excluſive* Trade as aforeſaid, a free Trade in, to, and from the Eaſt-Indies, with all, or any part of their own Joint Stock in Trade, Goods, Merchandizes, Eſtate and Effects, in common with other Subjects, trading in, to and from thoſe parts.

The Company are reſtrained from buying, purchaſing, enjoying, or poſſeſſing, at any one time, any Meſſuages, Lands, Rents,

Tenements, or Hereditaments, of what nature, kind, or quality ſoever, in the Kingdom of Great-Britain, exceeding in the whole the yearly value of £.10,000, any thing herein, or in any former Act or Charter granted to ſaid Company, in any wiſe notwithſtanding."

Theſe priviledges have been continued, by ſubſequent Acts of Parliament, to the year 1780.

Although we may admit that Parliament can reſume any *voluntary* grants or priviledges, from neceſſity of State, yet it muſt be acknowledged, that, if the Publick *reſume* any Priviledges which the Company have *purchaſed* from the Publick, that Publick *are bound* to repay to the Company the *Sum* which that Publick *have received* for thoſe Priviledges : if this is denied ; there is an end to all Publick Credit and National Faith.

If therefore the Company are denied the rights of *unlimited poſſeſſion* of *whatever they can acquire*, *bargained* for in this Act, the Pub-

Publick muſt repay the Sum received from the Company in conſideration thereof, viz.

The ſpecifick Sum of -	£. 200,000	
Intereſt on ditto, from 1730 to 1772, being 42 years at 4 per Cent. - - -	336,000	
Diminution of Annuity, 32,000*l.* per An, for 42 years -	1,344,000	
		1,880,000

It ſeemed to me abſolutely neceſſary to lay down clearly and fully the rights of the Company, becauſe it has not, in my opinion, been done ſatisfactorily, in the Report of the Committee of Secrecy; on the contrary, in their Report delivered in the 9th February, p. 26. They ſay, the Company paid £. 200,000 to the Publick in the year 1730, " for *the prolonga-*
" *tion of their right to an excluſive Trade*
" *to the Eaſt Indies*, and for the *perpetuity*
" *of their Corporate Capacity*," whereas, by reference to the Act, it does appear that, inſtead of the *prolongation* of their *right* to *an excluſive Trade*, the Company then relinquiſhed *their claim to the ſaid excluſive trade for ever*,

ever, and conſented that it ſhould be determinable by Parliament under certain circumſtances at a ſtated time. And although their claim to the *Perpetuity* of their *Corporate Capacity* be *recognized* and *confirmed* in that Act, it was by no means a *ſpecial* grant then made; but this, as well as the *unlimited* and *perpetual poſſeſſion of what the Company might acquire*, and other rights and priviledges were therein clearly expreſſed and declared. — Alſo in p. 28 of the ſame report, no notice is taken of the *rights of poſſeſſion* ſo fully declared in the Act, they ſay only, that, by this Act paſſed the 3d George II. "Notwithſtanding the redemption by Parliament of the Capital ſtock of the ſaid Company and of the Annuity payable in reſpect thereof, the ſaid Company ſhall be and continue to be a Body Politick and Corporate, in deed and in name, by the name of the United Company of Merchants of England trading to the Eaſt-Indies, and by that name ſhall have perpetual ſucceſſion," (the Act adds) "*and*

"*a*

" *a common ſeal, and they and their Succeſ-*
" *ſors, by the name aforeſaid, ſhall be able and*
" *capable in the Law, to have, purchaſe, re-*
" *ceive, enjoy, poſſeſs and retain to them, and*
" *their Succeſſors, Lands, Rents, Tenements,*
" *and Hereditaments, of what kind, nature,*
" *or quality ſoever, and alſo to ſell, grant,*
" *demiſe, aliene, or diſpoſe of the ſame.*"

I do not mean to inſinuate that the Committee intended to conceal the Company's rights, however I think it muſt be acknowledged, that the Report of the Committee conveys a very erroneous idea of the *intention, and contents* of the Act, which in the Statutes (P. 311.) is entitled, " An Act " for reducing the Annuity or Fund of the " United Eaſt-India Company, and for " *aſcertaining* their right of Trade to the " Eaſt-Indies, and *the continuance* of " their Corporation for that purpoſe, *upon* " *the terms therein mentioned.*"

The Committee of Secrecy, in the Report before mentioned, ſay, that, although the Company had cleared off £. 200,000 paid

paid to the Publick in 1730, the Dividend on an average of 47½ years antecedent to Midſummer 1756, was about 8⅕£. per Cent. and that the Company then had a Balance of £. 182,000 in their Favour.

I find the Company's Profits, on an average of five years before the Duannee, amounted to about £. 440,000 per Annum, or almoſt 13 per Cent.

In 1755 the Company's Dividend, in conſequence of the great Military Expences of the War on the Choromandel Coaſt, was reduced from 8 to 6 per Cent. It is certainly very proper in all times of difficulty to make a low Dividend; ſince a *reduction* of Dividend will ever occaſion Oeconomy in the expences of the Company, both at home and abroad: yet it muſt be admitted, that the Proprietors are juſtly entitled, in times of Proſperity, to ſuch an encreaſe as may be equivalent to a Dividend of 8 per Cent. on an average; ſuch Dividend appearing, by the Statement of the Committee, to be below *the mean* of more than 40 years from the Union of the Companies.

On

On an average of 17 years from Chriſtmas 1755, when the 6 per Cent. Dividend commenced, to Chriſtmas 1772, the Dividend to the Proprietors has been under $7\frac{3}{4}$ per Cent. viz.

			Years.			
From Chriſtmas 1755,	to Chriſtmas 1766,	11	at	6	per Cent.	2,112,000
Ditto - - 1766,	- Ditto - 1768,	2		10	- -	640,000
Ditto - - 1768,	- Ditto - 1769,	1		11	- -	352,000
Ditto - - 1769,	- Ditto - 1770,	1		12	- -	384,000
Ditto - - 1770,	to Midſummer 1772,	$1\frac{1}{2}$		$12\frac{1}{2}$	- -	600,000
From Midſum. 1772,	to Chriſtmas 1772,	$\frac{1}{2}$		6	- -	96,000
						4,184,000
	Dividend for 17 years at 8 per Cent.					4,352,000
So that the Proprietors have divided in 17 years					- -	168,000

leſs than 8 per Cent. per An. Notwithſtanding a ſum almoſt equivalent to the Company's Capital has been abſorbed in Military Expences.

For it appears, by the Accounts formerly delivered into the Houſe of Commons, that from 1754 to 1765 the Company's Military Expences amounted to no leſs a Sum than - - - £.8,634,574

During which period they received from Indian powers in money	1,649,938	
Revenues of ceded diſtricts -	3,698,006	
		5,347,944
		£. 3,286,630
Money granted by Parliament - - -		120,000
Company's Military Diſburſements, exceeding their receipts from Indian Powers, ceded Diſtricts and aid from Parliament		3,166,630

Since 1767 the Company have paid to the Publick, in conſideration of their Territorial Acquiſitions £.1,800,000, beſides £.369,398 now due on the ſame account, making in the whole £.2,169,398, though I believe no candid man will deny that the Company ought to have been *re-imburſed* their Military Expences in acquiring the Territorial Revenues, before the Publick were entitled to *any Share*, even had the Company *no claim* to the *poſſeſſion* of them.

From 1756 to 1766 the Expences incurred by Government in behalf of the Eaſt-India Company amounted only to £.4,544,084. 1. 5¾, viz.

Land Forces -	484,734. 1. 7	
Office of Ordnance	197,992. 9. 9	
Victualing Office	928,586. 13. 4½	
Navy Office -	2,812,779. 16. 9¾	
		4,424,084. 1. 5
Money granted by Parliament		120,000. 0. 0
		£. 4,544,084. 1. 5¾

The Company's Sales during this Period amounted nearly to £.24,000,000. The Dividend in that time was little more than

than £. 2,000,000. I may therefore venture to ſay the Company added to the National Maſs above 20 millions, and effected Conqueſts to the glory and intereſt of the Kingdom, at the expence to the publick, only of £. 4,544,084 1. 5¾ as by the above ſtatement.

Either the Company *are*, or *are not* entitled to the *poſſeſſion* of the Territorial Acquiſitions.

If they are entitled to them; This being declared, the Company can no longer be under any difficulties in point of Credit.

If they are not entitled to them; The Company certainly have a juſt claim on the Publick for the Sum paid for thoſe *rights of poſſeſſion*, and for the Balance of Military Diſburſements, viz.

£. 200,000 with Intereſt	536,000	
Diminution of Annuity	1,344,000	
		1,880,000
Balance of Military Diſburſements more than the Company received from Indian Powers, from Revenues of ceded Diſtricts and from Parliament - - - - -		3,166,630
Total		£. 5,046,630

This

This being the Company's claim on the Publick, Can they refuſe to give that Company a ſhort Credit for ſo ſmall a ſum as £. 1,400,000; which is not near ſo much as the Publick have already actually received, *in Caſh* from the Company, in conſideration of thoſe acquiſitions, although the Proprietors have received leſs by £. 168,000 than a Dividend of 8 per Cent. from 1755 to the preſent time.